

113336028/GETS 5322.1
PATENT**REMARKS**

Applicants have thoroughly considered the Examiner's remarks in the November 15, 2005 Office action and have amended the claims to more clearly set forth the invention. Claims 1, 4, 5, 10, 12, 13, 18, 20, 23, 25, 26, 36 and 45 have been amended, and claim 11 has been canceled by this Amendment A. Applicants provisionally elect claims 1-19 (i.e., Species I) for examination. However, reconsideration is respectfully requested of the species election and, in particular, of the reason stated in the Office action for the species election, in view of the amendments and following remarks.

The Office asserts that the application contains claims directed to patentably distinct species of the claimed invention. However, as amended, all groups of claims relate to managing operation of a locomotive. Applicants respectfully ask the Examiner to consider that even if he indeed believes that the inventions are separately usable, does he really believe such inventions are materially different from a search perspective? Applicants respectfully submit that for purposes of issuing a restriction requirement any such inventions cannot fairly be said to be materially different.

Applicants also ask the Examiner to consider the relative burdens on himself and the Applicants. In order for a reliable search to be conducted for the provisionally elected claims 1-19, all three subclasses will have to be searched. For example, the provisionally elected claims 1-19 relate to managing operation of a locomotive as a function of the location of the locomotive and "a location profile being selected from the group comprising a security profile and an emissions profile." (See claim 1). Claims 20-24, and 26-44 (i.e., Species II) relate to managing operation of a locomotive as a function of the location of the locomotive and a security parameter. Claims 25 and 45 (i.e., Species III) claims relate to managing operation of a locomotive as a function of the location of the locomotive and an emissions parameter. A reliable search of the provisionally elected species I claims will include a search of the subclasses for species II and species III. Accordingly, maintaining all claims in the application should not add more than a minimal burden. In this regard, the Examiner is asked to consider M.P.E.P. § 803:

113336028/GIFS 5322.1
PATENT

"If the search and examination can be made without serious burden, the examiner must examine it on the merits, even if it includes claims to distinct or independent inventions."

(emphasis added)

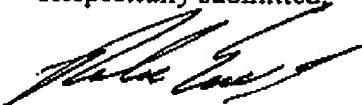
Applicants respectfully submit that the burden of examining the additional claims having an overlapping search field cannot fairly be said to be "serious." In contrast, if required to prosecute and maintain additional applications/patents, Applicants would incur filing and issue fees of about \$1000 or more and maintenance fees of about \$3000 or more for each additional application/patent, such fees being in addition to the similar fees to be incurred in this application.

Amendments to the specification and claims 4, 5, 10, 12, 13, 18 and 23 are considered to be of an editorial nature designed to improve the form of the application.

Applicants do not believe that the cancellation of claim 11 requires correction of inventorship under 37 C.F.R. 1.48(b).

In view of the foregoing, the restriction and election requirements are traversed and Applicants respectfully ask the Examiner to withdraw the restriction requirement.

Respectfully submitted,



Robert O. Enyard, Jr., Reg. No. 57,780
SENNIGER POWERS
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400